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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO:21250 of 2000

DATED: 06-03-2007

Between:
P.Ramakrishna Rao

..... PETITIONER

AND

1. Makthala Pentaiah and 4 others

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice B.Prakash Rao)

The petitioner is the unsuccessful applicant before the Special Court under the A.P.Land Grabbing (Prohibition) Act, 1982 (for brevity 'the Act'), who files this writ petition *inter alia* seeking for a certiorari assailing the orders in L.G.C.No.138 of 1997 dated 25-07-2000 rejecting his application purported to have been filed under Section 8 (1) of the Act seeking declaration that the respondents as land grabbers and consequently to deliver possession of the

property to the petitioner.

The claim of the petitioner, briefly, is in regard to an extent of Ac.1.20 gts. out of a total extent of Ac.8.00 in Sy.No.1438 of Amangal village and according to him the respondents have grabbed the same without any right, title or interest. Hence, the application. Contesting the application the case of the respondents was that the applicant's father late Sri Lakshminarayana Rao himself engaged the services of the respondents as labourers and allowed them to cultivate the said land, where a mango garden was raised in a portion. Further, an extent of Ac.1.10 gts. was also given at free of cost by an unregistered sale deed dated 16-06-1970. Hence, they have been in possession all along. Therefore, there is no act of any land grabbing and the application itself is not maintainable. After filing of the respective pleadings and framing of the issues and holding an enquiry where the petitioner examined P.Ws.1 and 2 and marked Exs.A-1 to A-11 and respondents examined R.Ws.1 to 4 and marked Exs.B-1 to B-6 apart from Ex.C-1, the Special Court did not find favour with the petitioner's case and rejected the same. Hence, the writ petition.

After hearing the learned counsel on both sides and also on perusal of the material on record, it is seen that there is no dispute to the fact that the property originally belonged to the petitioner's father and also there is no dispute to the fact that the respondents

had been engaged to cultivate the land and this occurred during the life time of late father who died in 1970. Though according to the respondents another piece of land was also already been given by a separate unregistered document, the fact remains that the respondents have come into possession much prior to the death of late father in the year 1970 and have been cultivating the same which amounts at the most permissive possession apart from the assertion as made by them that they obtained unregistered sale deed. The present application is filed in 1997 claiming that the respondents are land grabbers. On the face of the very allegation as made out in the application and also the evidence let in on their behalf, the petitioner absolutely failed to make out any act of land grabbing nor there is any possession and dispossession as required to be made out in a case under Section 8 (1) of the Act. This is a clear case of the possession of the respondents for a quite long time in their own right. Having regard to the finding of the fact as arrived at and even from the case as stated by the petitioner himself, no case has been made out to hold that the respondents are land grabbers.

On a perusal of the evidence and material on record, we are in entire agreement with the finding as arrived at by the Special Court and we do not find any miscarriage of justice nor any perversity to warrant interference of this Court. This Court would not go into the findings of the fact nor re-appreciate them in exercise

of powers under Article 226 of the Constitution of India. Hence, we do not find any merits in this writ petition.

The writ petition is accordingly dismissed. However, the petitioner is at liberty to avail any special remedy available under the law to take action against the respondents and the same can be considered and disposed of on merits independently uninfluenced by any of the findings given in this writ petition. No order as to costs.

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B.PRAKASH RAO, J

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M.VENKATESWARA REDDY, J

06th March, 2007

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